HIGH COURT OF UTTARANCHAL AT NAINITAL.

(Chapter VIII Rule 32 (2) (b)
Description of the Case.

Contempt Petition No. 52 of 2006

Dated of Decision : 23rd May, 2006

~~A.F.R. (Approved for reporting)~~

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Not approved for reporting.

Date 23/5/06 Initial of Judge.

Note : Bench Reader will attach this at the top of first page of the judgment when it is put up before the Judge for signature.

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Contempt Petition No. 52 of 2006

Dr. Suniti Mishra
W/o Dr. S.K. Mishra aged about 41 years
R/o ¾ Officers Colony,
S.D.M. Compound Haldwani
District – Nainital ….. Petitioner

Versus

1. S. Raju, Secretary Medical Education, Dehradun

2. Dr. K.K. Srivastava,
District Homeopathic Officer, Nainital …Respondents

Sri Ashish Joshi, learned counsel for the petitioner
Sri N.B. Tiwari, C.S.C. for the State

Hon'ble J.C.S. Rawat, J.

This Contempt Petition has been filed under the Contempt of Court's Act to punish the contemnors for the willful disobedience of the order of Hon'ble Court dated 15.12.2005 passed in Writ Petition No. 330 (S/B) of 2005. The Division Bench of this court had directed in its order as follows:-

5. In the above circumstances, the impugned order is liable to be quashed and the Government of Uttaranchal is liable to be directed to reconsider the request of the petitioner in the light of the above observations in consultation with the State of Uttar Pradesh. Hence, the writ petition is allowed in the following terms:

i. Annexure 1 order dated 03.12.2005 is quashed.

ii. *The Government of Uttaranchal is directed to reconsider the request of the petitioner for adjustment/transfer on mutual agreement in compliance with the directions contained in Annecure-2 judgment and in the light of the observation contained in this judgment.*

iii. Till the mater is reconsidered and fresh orders are passed by the Government of Uttaranchal, Annexure 10 order

dated 21.07.2005 shall be kept in abeyance as far as the petitioner is concerned.

The court has observed in its judgment that the Sate Government rejected the representation of the present petitioner in pursuance of the order passed by the Division Bench of this court on 09.08.2005. Thereafter, the matter again came before the Division Bench for the hearing of the case and the court further directed that the Government of Uttaranchal again take a decision on the request of the petitioner for adjustment/transfer on mutual agreement from one State to another State. The Bench further observed that the fifth respondent failed to understand the import of the direction contained in Annecure-2 judgment and to take note of the Government Order dated 14.06.2005 referred to in the judgment. It was further observed that the order which was passed earlier was passed without proper application of mind and considered the relevant aspects. Thereafter, the matter was again considered by the competent authority on 15th February, 2006 by which the representation was rejected on the ground that both the Officers had been ordered to be relieved to their respective States. During the pendency of the contempt petition, the competent authority also passed the order dated 4th March, 2006 by which the representation of the petitioner was considered and the copy of which has been annexed alongwith the counter affidavit filed as Annexure-12 to the petition. Perusal of the order reveals that the said representation has been dismissed considering the aspects including that the husband of the present petitioner had been relieved to the State of U.P. according to the Government Order. It was further observed in that order that the person whom the mutual transfer to be effected had already been ordered to be relieved from the State of Uttaranchal. The order itself reveals that the compliance of order has been made. Learned counsel for the petitioner contended that the reason which had been assigned are superficial and are not correct. While sitting under the

Contempt jurisdiction, this court cannot consider whether the sufficient reasons had been assigned or not. This court has to see whether the order has been complied with or not. It was further pointed out that the salary of the petitioner had not been paid from December, 2005 to Feb. 2006. Perusal of the judgment reveals that there is no such direction in the judgment that the salary of the petitioner should be paid. If the salary had not been paid, the petitioner may raise the grievance before the competent court to seek redressal.

In view of the forgoing discussion, the order has been complied with and the contempt petition is liable to be dismissed and the same is dismissed accordingly.

All applications pending in this case are stand disposed of in terms of the judgment.

(J.C.S. Rawat, J.)

23rd May, 2006

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